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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/314,001	05/19/99	ASLANOVA	L 33611YW002

EXAMINER

IM22/0901

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ART UNIT	PAPER NUMBER
1731	8

DATE MAILED: 09/01/00

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 7-14-00

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.
Of the above, claim(s) 8-20 is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☒ Claim(s) 1-7 is/are rejected.
☐ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☒ received.
☐ received in Application No. (Series Code/Serial Number) _____.
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892
☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6
☐ Interview Summary, PTO-413
☐ Notice of Draftperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

* U.S. GPO: 1996-404-49

DETAILED ACTION

Election/Restriction

Applicant's election of Group I in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 8-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

It is noted that newly added claims belong to group II. Although Applicant indicates that new claims 19-20 are linking claims, there are no reasons put forth supporting this and Examiner cannot see how they could possibly be linking claims.

Specification

The disclosure is objected to because of the following informalities: Most of the entries in tables 1-7 have two numbers separated by commas. It is in clear what these two numbers are suppose to be, or if the commas should be decimal points.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 requires a further stabilizing after the initial stabilizing. This is not understood because once the glass is made stable, how can it be further stabilized? If something can be further stabilized, it must be unstable. A glass cannot be both stable and unstable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Austin 4149866 in view of Shofner 4343637 and Naber 4940478.

Austin discloses the composition of the invention and the use of basalt: see col. 2, line 48-col.3, line17. However, Austin does not go into much detail as to how the melt is created.

Although Austin does not mention the ratios, they are inherently met by at least one of the specific compositions disclosed by Austin.

Naber teaches that it is desirable to preheat basalt when making fibers: col. 1, lines 6-8 and 31-34. This is to save energy/money: col. 2, lines 19-23. It would have been obvious to practice the Austin invention by using preheat of the basalt as taught by Naber for the reasons of Naber.

Shofner teaches using a furnace (12) and a forehearth (18) to produce fibers from basalt. Austin fails to disclose what sort of apparatus is used. It would have been obvious to use the Shofner apparatus to form the fibers, because some sort of apparatus is needed and for the advantages that Shofner discusses. It is deemed that the melting in the furnace is the first stabilizing, because at least some of the melt would have unmelted particles in it - such a mixture would not be in thermodynamic equilibrium and thus unstable; in other words, it is still changing. Likewise in the forehearth, the glass would still be homogenizing - thus it isn't stable - it's still changing. Alternatively, since the glass is flowing it is unstable from a kinetic energy standpoint. It is stabilizing even more than before.

As to claim 3, it would have been an obvious matter of routine experimentation to determine the optimal glass temperature. Clearly, if the glass was near or below the melting temperature it would be too stiff to draw a fiber therefrom. And if it was very much above the melting point, it would be too fluid - water like - to draw a fiber therefrom.

Claim 5: see Table 3. It would have been obvious that the feeder would be at a temperature near the claimed range.

Claim 2, 6 and 4: See col. 7, line 9-11 of Naber. It is clear that the basalt would be heated at least one temperature within the claimed range for at least one portion of the process.

Claim 7: see how claim 3 is addressed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dunn, Bronshtein (2), Demaschquie, Brooks and Froberg are cited as being of general interest.

Requests for interviews

The Office initiates interviews whenever it is deemed that it would be beneficial to do so to advance prosecution. And when an Applicant wishes to have an interview, the burden to initiate the interview remains solely with Applicant. MPEP 408 notes that Examiners are not required to note or acknowledge requests for telephone calls or state reasons why such proposed telephone interview would not be effective; therefore, requests for the Office to initiate interviews will not be acknowledge.

MPEP 713.05, 713.03, 713.09, and 713.01 and common sense indicate that any of the following questions would be appropriate for the Office to ask prior to granting an interview: Has there already been an interview of record in the case? Will the interview last more than 30 minutes? When do you want the interview? Does Applicant's representative have Power of Attorney? Does Applicant's representative have authority to bind the principal concerned? (i.e. Does Applicant's representative have authority to make any and all changes?) Who will participate in the interview? What is the intended purpose(s) of the interview? What is the intended content of the requested interview? Failure to volunteer the above information might possibly result in a denial of an interview, or the inability of the Examiner to adequately answer Applicant's questions during the interview.

CONTACT INFORMATION

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PRIMARY EXAMINER

8-31-00